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Forty-eighth session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Note by the Secretary-General

The Secretary-General has the honour to draw the attention of the Commission on Human Rights to his report entitled "Respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations", contained in document A/C.5/46/4.

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Agenda item 12 (b)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

Letter dated 2 January 1992 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Secretary of the Commission on Human Rights and has the honour to request circulation of the document transmitted herewith, regarding the position of the Republic of Iraq on the situation of Kuwaitis in Iraq, as an official document of the forty-eighth session of the Commission on Human Rights to be held from 27 January to 6 March 1992.

The situation of Kuwaitis in Iraq

1. Since the end of the Gulf war, Iraq has followed the biased media campaign waged by officials in Kuwait regarding the situation of Kuwaitis in Iraq, and the attempt by such officials to delude Arab and international public opinion into believing that Iraq is detaining "large" numbers of Kuwaitis and preventing their return to Kuwait. The obvious motive behind this media campaign is to prolong the unjust economic embargo and sanctions against the Iraqi people. Iraq has meticulously fulfilled the commitments contained in paragraphs 30 and 31 of Security Council resolution 687 (1991).

It has also cooperated fully with the International Committee of the Red Cross by submitting lists of the Kuwaitis in Iraq, which helped to facilitate the registration of Kuwaitis and other foreign nationals and the repatriation of all Kuwaiti subjects approved by the competent Kuwaiti authorities in addition to that of citizens of third countries. Iraq has also taken all the necessary measures to facilitate access by the International Committee of the Red Cross to all such individuals, regardless of their location. The latter meanwhile enjoy full freedom in Iraq whilst awaiting approval by the Kuwaiti authorities of their return to Kuwait. The continuing coordination and cooperation between the competent Iraqi authorities and the mission of the International Committee of the Red Cross has facilitated the return to Kuwait of 6,493 military personnel and civilians of Kuwaiti or other nationality since 4 March 1991. Currently, there are 3,711 Kuwaitis in Iraq comprising over 606 families. They have all been given the opportunity to contact, and register their names with, the International Committee of the Red Cross at Baghdad entirely of their own free will and without interference from the competent Iraqi authorities. From the outset, the mission of the International Committee of the Red Cross at Baghdad has sought approval from the competent Kuwaiti authorities for their return to Kuwait, but has received approval for the return of only 215. All Kuwaitis now in Iraq are free to travel and live wherever they please. They are scattered throughout the governorates of Iraq, where they lead a normal life, as the International Committee of the Red Cross, through its mission at Baghdad, is fully aware.

2. According to its note 5951 of 15 September 1991, the mission of the International Committee of the Red Cross handed over to the Iraqi authorities a list of 2,242 names provided by the competent Kuwaiti authorities. The list was closely examined by the competent Iraqi authorities and, according to the information available to them, it was determined that 177 of those appearing on the list had already been returned to Kuwait under the supervision of the International Committee of the Red Cross. Thirty-four Kuwaitis on the same list are still in Iraq awaiting approval from the Kuwaiti authorities for their return. As for the remaining persons on the Kuwaiti list, the competent Iraqi authorities currently have no information, which may be attributable to three possible reasons:

(a) A number of them may be living in Iraq with their relatives and may have failed to register their names with the mission of the International Committee of the Red Cross in preparation for their return to Kuwait;

(b) During the incidents in Kuwait, many Kuwaitis were on summer holiday in Europe, America, South-East Asia and elsewhere. It is therefore possible that many of these have not yet returned to Kuwait and are living and pursuing their various activities in those countries;

(c) Many Iraqi and Kuwaiti civilians were killed either in Kuwait or in Iraqi territory as a result of the bombing of Kuwait and Iraq by aircraft belonging to the coalition countries. This has been confirmed by the following information which was published in Western and Arab reports and newspapers:

(i) In a report submitted to the San Remo Conference, held on 3-7 September 1991, on questions of humanitarian law and the Gulf conflict, Mr. Kenneth Roth, Assistant Director of Human Rights Watch in New York, stated the following:

- Thirty to 35 Sudanese immigrants were killed when aircraft belonging to the coalition forces fired on their bus eight miles east of the town of Rutbah in western Iraq;

- At 2 p.m. on 9 February 1991, a Jordanian bus carrying fleeing Kuwaiti civilians was attacked on the Kuwaiti border by coalition aircraft missiles, resulting in 27 deaths, in addition to the death of four others from two cars which had been accompanying the bus. The bus was carrying luggage on its roof;

- At 4.10 p.m. on 15 February 1991, a bus with 36 Pakistani workers on board was bombed six miles west of the town of Rutbah. The bus, which was carrying luggage on its roof, was attacked four times at intervals of no more than two to three minutes;

- On 4 February 1991, the Government of the Hashemite Kingdom of Jordan made a formal protest against the attacks on its civilian buses, which had resulted in the deaths of the bus drivers;

(ii) On 7 August 1991, Al-Quds newspaper reported that representatives of Western relief agencies had been told by Kuwaitis that scores of those killed during the Gulf war had been Kuwaiti civilians who were with the Iraqis. Following the cease-fire, British forces from the 1st Company of the Staffordshire Regiment buried large numbers of civilians, including women and children, whose cars had been destroyed by fire from the coalition forces during the final destructive stages of the war, near Jurf al-Talla;

(iii) In its edition of 4 September 1991, Le Monde newspaper reported that groups of Kuwaitis had been bombed by coalition aircraft during the withdrawal of Iraqi units from Kuwait.

3. Iraq has already submitted a proposal for the formation of a joint technical committee, in accordance with the Third and Fourth Geneva Conventions, comprising experts representing Iraq, Kuwait, Saudi Arabia and the International Committee of the Red Cross, to investigate the fate and whereabouts of missing persons of Iraqi, Kuwaiti, Palestinian, Sudanese or other nationality.

4. In order to ensure that the Arab and international community were directly informed on the matter, Iraq promptly requested the Secretary-General of the League of Arab States to send a team from the League to investigate the situation of Kuwaitis in Iraq, on the understanding that Iraq would offer the team every assistance and the facilities required to ascertain the true facts. On the basis of the Iraqi request and the discussions held during the ninety-sixth session of the Council of the League of Arab States held at Cairo from 10 to 12 September 1991, Mr. Abdullah Adam, the Secretary-General of the League of Arab States, appointed the Assistant Secretary-General of the League (a Somali national) as his representative, to be accompanied by Mr. Mukhtar al-Yamani (a Moroccan national), to visit Iraq in order to investigate the situation of Kuwaitis in Iraq. The delegation arrived at Baghdad on 27 September 1991 and continued its mission until 14 October 1991, during which time it met the Minister and the Minister of State for Foreign Affairs. It also held lengthy meetings with a number of officials from the Ministry of Foreign Affairs, in addition to frequent meetings with the mission of the International Committee of the Red Cross at Baghdad. The League delegation also visited the governorates of Anbar, Niniveh and Salahuddin between 31 September and 5 October 1991 and met with Kuwaitis in the town of Mosul, the sub-district of Rabi'a, the districts of Ba'aj and Hadr, and Talul al-Baj in the governorate of Salahuddin. The delegation also visited the sub-district of Nukhaib in southern Iraq. On the evening of Thursday, 10 October 1991, a further round of talks was held at the Ministry of Foreign Affairs between the Iraqi side and the League delegation to evaluate the activities undertaken by the latter and the conclusions it had drawn during its field visits. The head of the League delegation expressed great satisfaction at the excellent treatment of the delegation and the fact that all its requirements had been met, thereby promoting the success of its mission. Both sides agreed that the delegation's mission should remain open-ended in the event of additional information becoming available in the future. During the session, Mr. Abdullah Adam was given the following lists:

(a) A list of the 6,493 Kuwaitis already repatriated to Kuwait through the International Committee of the Red Cross as of 9 October 1991;

(b) A list of the 3,711 Kuwaitis registered by the mission of the International Committee of the Red Cross at Baghdad who were awaiting approval from the Kuwaiti authorities for their return to Kuwait;

(c) A list of the 83 people whose repatriation to Kuwait has been rejected;

(d) A list of the 146 foreigners and Arabs who had been handed over through the mission of the International Committee of the Red Cross;

(e) A list of the 12 dead handed over through the mission of the International Committee of the Red Cross;

(f) A list of the 2,007 people registered through their embassies;

(g) A list of the 21 Al-Sabah family members who were repatriated to Kuwait in April 1991.

Mr. Adam was also given note verbale 7/4/13/66483, dated 12 October 1991, transmitting lists of the Iraqi officers and soldiers missing during the Gulf war and requesting him to ascertain their whereabouts and provide us with information or repatriate them to Iraq.